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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

|                                      |   |                             |
|--------------------------------------|---|-----------------------------|
| UNITED STATES OF AMERICA, and        | ) | CASE NO. C 09-0186 CW       |
| THE PEOPLE OF THE STATE OF           | ) |                             |
| CALIFORNIA <i>ex rel.</i> CALIFORNIA | ) |                             |
| STATE WATER RESOURCES                | ) |                             |
| CONTROL BOARD, and CALIFORNIA        | ) |                             |
| REGIONAL WATER QUALITY               | ) |                             |
| CONTROL BOARD, SAN FRANCISCO         | ) |                             |
| BAY REGION,                          | ) | STIPULATION AND ORDER       |
|                                      | ) | HOLDING IN ABEYANCE ALL     |
|                                      | ) | LITIGATION DEADLINES AND    |
| Plaintiffs,                          | ) | VACATING SEPTEMBER 15, 2009 |
| v.                                   | ) | CASE MANAGEMENT             |
|                                      | ) | CONFERENCE                  |
| EAST BAY MUNICIPAL UTILITY           | ) |                             |
| DISTRICT                             | ) |                             |
|                                      | ) |                             |
| Defendant.                           | ) |                             |

On July 22, 2009, the Court entered the Stipulated Order for Preliminary Relief in this case. The Stipulated Order provides for a number of measures that East Bay Municipal Utility District (EBMUD) must take to begin to curtail discharges from its wet weather facilities. These

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1 include data gathering, analysis and other work. The Stipulated Order is not, however, a final  
 2 remedy in that the measures specified will not alone prevent future discharges. Rather, as  
 3 explained in detail in the Motion to Enter, the government plaintiffs will review the work done  
 4 under this Order and will either submit a further settlement document to the Court or utilize other  
 5 enforcement options. Since the flows at issue in this matter originate in the collection systems of  
 6 satellite communities, those entities will need to be involved in the ultimate remedy, even though  
 7 they are not presently before the Court.

8 The activities, discussed in great detail in the Motion to Enter, will take approximately  
 9 three years to complete, although there are interim deliverables that begin to become due within  
 10 the first year and there is an annual report due August 31 of each year. As long as EBMUD is  
 11 diligent in its efforts under the Order, there is no reason to proceed with the litigation while these  
 12 efforts are being undertaken. The plaintiffs are hopeful that a future settlement of the entire case  
 13 will be ultimately be achieved without the need for discovery, motion practice or trial. Because  
 14 of this unusual posture, we seek the Court's approval of this stipulation to hold in abeyance all  
 15 litigation deadlines in the case and to vacate the currently scheduled case management  
 16 conference set for September 15, 2009. We propose to file with the Court semi-annual status  
 17 reports on the progress under the Order, with the first report due January 15, 2010. When the  
 18 activities under this Order are drawing to a close, the parties will schedule a case management  
 19 conference with the Court to decide how to proceed with the litigation.

20 NOW THEREFORE, IT IS HEREBY STIPULATED by the United States;the  
 21 State of California; the Intervenor Plaintiffs, San Francisco Baykeeper and Our Children's Earth  
 22 Foundation; and the defendant East Bay Municipal Utility District, that:

- 23 (1) all litigation deadlines in this case are held in abeyance pending further order of the  
 24 Court;
- 25 (2) the case management conference set for September 15, 2009 is vacated;

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- (3) the parties will submit joint status reports to the Court semi-annually beginning on January 15, 2010; and
- (4) the parties will alert the Court when the activities under the Stipulated Order are complete and shall seek a case management conference at that time.

Respectfully submitted,

JOHN C. CRUDEN  
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U.S. Department of Justice

DATED: 8/5/09

/s/ Lori Jonas  
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District

ORDER

The Stipulation agreed to herein IS SO ORDERED.

DATED: 8/17, 2009

Claudia Wilken  
CLAUDIA WILKEN  
United States District Judge

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